# TaxNewsFlash

**United States**

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# Legislative update: Comparing Biden and Wyden international tax proposals (KPMG chart)

Tax proposals from President Joe Biden and Senate Finance Committee Chairman Ron Wyden (D-OR) would make substantial changes to the U.S. corporate tax system—in particular, major changes to the international tax system that would reverse certain rules included in the 2017 tax law (the law that is frequently referred to as the "Tax Cuts and Jobs Act").

President Biden and Chairman Wyden are broadly proposing to move in the same direction—increasing the U.S. corporate rate while simultaneously raising taxes on foreign earnings. But there are important differences between Biden's proposals and those outlined by Chairman Wyden.

KPMG is presenting on Friday April 16, 2021, at 2:00 p.m. EDT, a webcast that will explore the details of the proposals. **Register for the webcast**

In advance of the webcast, KPMG provides the following chart of the Biden Administration and Wyden proposals.

| | Biden Administration Proposal[1] | Wyden Proposal[2] |
|---|---|---|
| **General Corporate** | | |
| *Corporate rate and Minimum tax* | — Increase corporate to 28%<br>— New minimum tax of up to 15% of book income on large corporations reporting net income of $2B or more | No proposal |
| **GILTI** | | |

[1] Read *TaxNewsFlash* for *The American Jobs Plan*, released by the White House on March 31, 2021, and *TaxNewsFlash* for *The Made in America Tax Plan*, released by the Treasury Department on April 7, 2021.

[2] Read *TaxNewsFlash* on *Overhauling International Taxation*, released by Senators Ron Wyden (D-OR), Sherrod Brown (D-OH), and Mark Warner (D-VA) on April 5, 2021.

| | Biden Administration Proposal[1] | Wyden Proposal[2] |
|---|---|---|
| *GILTI Rate* | Increase GILTI rate from 10.5% to 21% (75% of proposed new 28% corporate tax rate) | GILTI rate increased to 60%-100% of corporate rate |
| *DTIR/QBAI* | Eliminate net Deemed Tangible Income Return ("DTIR") deduction (10% return on Qualified Business Asset Investment ("QBAI")) | Eliminate net Deemed Tangible Income Return ("DTIR") deduction (10% return on Qualified Business Asset Investment ("QBAI")) |
| *Country-by-country* | Apply country-by-country computation | Apply country-by-country limitation by:<br>— Separate GILTI FTC baskets for each country, or<br>— Mandatory high-tax exception – apply GILTI only to income from low-tax jurisdictions |
| **FDII** | | |
| *Repeal* | Repeal FDII and replace with more R&D investment incentives | No definitive proposal –<br>Open to either:<br>— Possible repeal of FDII, or<br>— Possible retention of FDII if GILTI rate remains lower than corporate rate |
| *QBAI* | No proposal | Repeal QBAI reduction to FDII |
| *Applicable income* | No proposal | Replace "deemed intangible income" with "deemed innovation income" - an amount of income equal to a share of expenses for innovation-spurring activities that occur in the U.S., such as R&D and worker training |
| **BEAT** | | |
| *Repeal* | Repeal and replace with SHIELD - denial of deductions on payments to foreign corporations based in a country that does not adopt a certain minimum tax rate:<br>— The rate set by a multilateral tax agreement, if available, or, if not,<br>— The GILTI rate (as modified) | No proposal |
| *Treatment of credits* | No proposal | — Eliminate impact of domestic business tax credits on BEAT liability<br>— Open question on impact of FTCs on BEAT liability dependent on BEAT revenue |
| *Rate* | No proposal | — Retain 10% rate for "regular" taxable income<br>— Increase rate for income tied to base erosion payments |
| **Other** | | |

| | Biden Administration Proposal[1] | Wyden Proposal[2] |
|---|---|---|
| *Corporate residency* | Treat a foreign acquiring corporation as a domestic corporation if:<br>— The foreign acquirer satisfies a 50% ownership test, or<br>— The management and control is in the US | No proposal |
| *Expense allocation and apportionment* | No proposal | Treat expenses for research and management in the US as entirely domestic (i.e. exclusive apportionment) |
| *Offshoring expenses* | — Deny deductions for job offshoring<br>— Provide credit for job onshoring (previously described as 10%) | No proposal |
| *Onshoring incentive* | — Provide a tax credit to support onshoring jobs | No proposal |